

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-0449-MLM-E **TCEQ ID NOS:** RN101278034 AND RN105161889; **CASE NO.:** 33045
RESPONDENT NAME: MICHAEL LANTZ O'NEILL DBA FRONTIER PARK RESORT AND MARINA

ORDER TYPE:☐ 1660 AGREED ORDER☐ FINDINGS AGREED ORDER☐ FINDINGS ORDER FOLLOWING
SOAH HEARING☒ FINDINGS DEFAULT ORDER☐ SHUTDOWN ORDER☐ IMMINENT AND SUBSTANTIAL
ENDANGERMENT ORDER☐ AMENDED ORDER☐ EMERGENCY ORDER**CASE TYPE:**☐ AIR☒ MULTI-MEDIA (check all that apply)☐ INDUSTRIAL AND HAZARDOUS
WASTE☐ PUBLIC WATER SUPPLY☐ PETROLEUM STORAGE TANKS☒ OCCUPATIONAL CERTIFICATION☒ WATER QUALITY☐ SEWAGE SLUDGE☐ UNDERGROUND INJECTION
CONTROL☐ MUNICIPAL SOLID WASTE☐ RADIOACTIVE WASTE☐ DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 6 miles east of Milam in Carrice Creek, Sabine County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: One complaint has been received. The complaint alleged that wastewater was being discharged from a lift station at the Facility. There are two additional pending enforcement actions regarding this facility. TCEQ Docket Nos. 2007-0712-PWS-E and 2008-1103-PWS-E.

INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 28, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, Air Enforcement Section, MC R-4, (817) 588-5890

TCEQ Regional Contact: Mr. Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondent: Mr. Michael Lantz O'Neill, Owner, Frontier Park Resort and Marina, Rural Route 1, Box 1690,
Hemphill, Texas 75948

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: January 22, 2007</p> <p>Dates of Investigation Relating to this Case: February 13, 2007, and July 6, 2007</p> <p>Dates of NOEs Relating to this Case: March 28, 2007, and July 17, 2007 (NOEs)</p> <p>Background Facts:</p> <p>The EDPRP was filed on June 26, 2007, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on July 12, 2007, as evidenced by the signature on the card. The EDFARP was filed on October 23, 2007, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDFARP on November 15, 2007, as evidenced by the signature on the card. The Respondent has failed to file and answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to. obtain a wastewater operators license prior to operating a permitted wastewater treatment and collection system [30 TEX. ADMIN. CODE § 30.331(b), and TEX. WATER CODE §§ 26.0301 and 37.003]. Failed to. comply with permitted effluent limits [TPDES Permit, Effluent Limitations and Monitoring Requirements, Nos. 1, 2, and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)]. 	<p>Total Assessed: \$48,535</p> <p>Total Due to General Revenue: \$48,535</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s)</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Begin providing non-compliance notifications to TCEQ; Begin maintaining all required records; and Begin collecting and analyzing effluent samples for fecal coliform bacteria five times per week. Within 15 days: <ol style="list-style-type: none"> Submit the annual sludge report for the reporting period ending July 31, 2006; and Submit a revised DMR for outfall 001 to include pH data for the monitoring period ending September 30, 2006. Within 30 days, develop and implement operational and maintenance procedures to prevent future unauthorized discharges from the lift station. Within 45 days, hire a licensed operator to operate the WWTP. Within 60 days, submit written certification of compliance with the TPDES Permit Effluent Limitations and Monitoring Requirements. Within 90 days, install audio/visual systems and repair or replace the pumps at Lift Stations No. 1 and 2. Within 105 days, submit written certification demonstrating compliance.

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to submit the annual sludge report for the reporting period ending July 31, 2006 [TPDES Permit, Sludge Provisions, and 30 TEX. ADMIN. CODE § 305.125(17)].</p> <p>4. Failed to submit all required parameter data as specified in the permit [TPDES Permit, Monitoring and Reporting Requirements, No. 1, and 30 TEX. ADMIN. CODE § 305.125(1)].</p> <p>5. Failed to prevent unauthorized discharges [TPDES Permit, Permit Conditions, No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4), and TEX. WATER CODE § 26.121(a)].</p> <p>6. Failed to properly report unauthorized discharges [TPDES Permit, Monitoring and Reporting Requirements, No. 7.a., and 30 TEX. ADMIN. CODE § 305.125(9)].</p> <p>7. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [TPDES Permit, Operational Requirements, No. 1, and 30 TEX. ADMIN. CODE §§ 305.125(5), and 317.2].</p> <p>8. Failed to collect and analyze effluent samples for fecal coliform bacteria five times per week [TPDES Permit, Effluent Limitations and Monitoring Requirements, No. 1, and 30 TEX. ADMIN. CODE § 319.5(b)].</p> <p>9. Failed to maintain required records [TPDES Permit, Monitoring and Reporting Requirements, No. 3.b., and 30 TEX. ADMIN. CODE § 319.7(c)].</p> <p>10. Failed to submit a written report within five days of becoming aware of non-compliant effluent results that deviate from the permitted limitation by more than 40% [TPDES Permit, Monitoring and Reporting Requirements, No. 7.c., and 30 TEX. ADMIN. CODE § 305.125(1)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

DATES	Assigned	12-Mar-2007	Screening	23-Mar-2007	EPA Due	
	PCW	28-Mar-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Michael Lantz O'Neill dba Frontier Park Resort and Marina		
Reg. Ent. Ref. No.	RN105161889		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33045	No. of Violations	1	
Docket No.	2007-0449-MLM-E	Order Type	Findings	
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Jorge Ibarra, P.E.	
Multi-Media		EC's Team	EnforcementTeam 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0% Enhancement** **Subtotals 2, 3, & 7** **\$0**

Notes: No change due to Average Performer classification.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$44	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$1,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,250**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment **\$0**

Notes:

Final Penalty Amount **\$1,250**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$1,250**

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

0% Reduction **Adjustment** **\$0**

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$1,250**

PCW-1

Screening Date 23-Mar-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marin

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN105161889

Media [Statute] All Occupational Licenses

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 23-Mar-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN105161889

Media [Statute] All Occupational Licenses

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 30.331(b), and Tex. Water Code §§ 26.0301 and 37.003

Violation Description

Failed to obtain a wastewater operators license prior to operating a permitted wastewater treatment and collection system.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to obtain a wastewater operators license prior to operating a permitted wastewater treatment and collection system could result in poor operation of the facility which in turn could result in the exposure of significant amounts of pollutants which would exceed levels that are protective of human health or the environment.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 2

38 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

Two monthly events are recommended. The penalty was calculated from the investigation date, February 13, 2007, to the screening date, March 23, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$44

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN105161889

Media All Occupational Licenses

Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount			
Delayed Costs										
Equipment				0.0	\$0	\$0	\$0			
Buildings				0.0	\$0	\$0	\$0			
Other (as needed)				0.0	\$0	\$0	\$0			
Engineering/construction				0.0	\$0	\$0	\$0			
Land				0.0	\$0	n/a	\$0			
Record Keeping System				0.0	\$0	n/a	\$0			
Training/Sampling				0.0	\$0	n/a	\$0			
Remediation/Disposal				0.0	\$0	n/a	\$0			
Permit Costs				0.0	\$0	n/a	\$0			
Other (as needed)	\$1,000	13-Feb-2007	1-Jan-2008	0.9	\$44	n/a	\$44			
<p>Notes for DELAYED costs</p> <p>Estimated cost to obtain a wastewater operators license prior to operating a permitted wastewater treatment and collection system. Date Required is the investigation date, Final Date is the expected compliance date.</p>										
Avoided Costs										
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)										
Disposal				0.0	\$0	\$0	\$0			
Personnel				0.0	\$0	\$0	\$0			
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0			
Supplies/equipment				0.0	\$0	\$0	\$0			
Financial Assurance [2]				0.0	\$0	\$0	\$0			
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0			
Other (as needed)				0.0	\$0	\$0	\$0			
<p>Notes for AVOIDED costs</p>										
<p>Approx. Cost of Compliance</p> <table style="width: 100%;"> <tr> <td style="width: 40%; text-align: right;">\$1,000</td> <td style="width: 20%; text-align: center;">TOTAL</td> <td style="width: 40%; text-align: right;">\$44</td> </tr> </table>								\$1,000	TOTAL	\$44
\$1,000	TOTAL	\$44								

Compliance History

Customer/Respondent/Owner-Operator: CN601121452 ONEILL, MICHAEL LANTZ Classification: AVERAGE Rating: 1.86
Regulated Entity: RN105161889 ONEILL MICHAEL LANTZ Classification: Site Rating:
ID Number(s):
Location: RT 1 BOX 1690, HEMPHILL, TX, 75948
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: April 11, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 11, 2002 to April 11, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 03/28/2007 (540299)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

CH-1



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	12-Mar-2007		
	PCW	1-Oct-2007	Screening	25-Jul-2007
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Michael Lantz O'Neill dba Frontier Park Resort and Marina		
Reg. Ent. Ref. No.	RN101278034		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33045	No. of Violations	9
Docket No.	2007-0449-MLM-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$19,300**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 170% Enhancement Subtotals 2, 3, & 7 **\$32,810**

Notes: The respondent was issued three NOV's with the same or similar type of violations and self-reported 31 months of effluent violations.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDP/PRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts \$1,607 **0% Enhancement*** Subtotal 6 **\$0**
Approx. Cost of Compliance \$22,300 ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 Final Subtotal **\$52,110**

OTHER FACTORS AS JUSTICE MAY REQUIRE -9% Adjustment **-\$4,825**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Recommend reduction in penalty amount so that monthly self-reported violations do not overly impact the penalty amount.

Final Penalty Amount **\$47,285**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$47,285**

DEFERRAL 0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$47,285**

PCW-2

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marin

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	34	170%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 170%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The respondent was issued three NOVs with the same or similar type of violations and self-reported 31 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 170%

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014015001, Effluent Limitations and Monitoring Requirements, No. 1, 2, and 6, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permit effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate BOD5 to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS"), dissolved oxygen, flow, chlorine residual, and fecal coliform bacteria values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

303 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended based on the months the maximum permitted limits were exceeded.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$551

Violation Final Penalty Total \$9,800

This violation Final Assessed Penalty (adjusted for limits) \$9,800

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Nov-2005	15-Jan-2008	2.2	\$551	n/a	\$551

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$551

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0014015001, Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description

Failed to submit monitoring results at the intervals specified in the permit. Specifically, the respondent failed to submit the annual sludge report for the reporting period ending 07/31/2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$1,000

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$2,450

This violation Final Assessed Penalty (adjusted for limits) \$2,450

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	1-Sep-2006	1-Dec-2007	1.2	\$31	n/a	\$31

Notes for DELAYED costs

Estimated cost to prepare and submit the required sludge report. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$31

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s) TPDES Permit No. WQ0014015001, Monitoring and Reporting Requirements, No. 1, 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to submit all required parameter data as specified in the permit. Specifically, the respondent failed to include pH data in the discharge monitoring report ("DMR") for outfall 001 for the monitoring period ending 09/30/2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$245

This violation Final Assessed Penalty (adjusted for limits) \$245

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	20-Oct-2006	1-Dec-2007	1.1	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to prepare and submit a complete DMR. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s) TPDES Permit No. WQ0014015001, Permit Conditions, No. 2.g., 30 Tex. Admin. Code § 305.125(4), and Tex. Water Code § 26.121(a)

Violation Description Failed to prevent unauthorized discharges. Specifically, the pump servicing Lift Station No. 1 failed resulting in three unauthorized sewage discharge events occurring on 01/19/2007, 03/09/2007, and 07/04/2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to prevent unauthorized discharges resulted in the release of insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

64 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$45

Violation Final Penalty Total \$4,900

This violation Final Assessed Penalty (adjusted for limits) \$4,900

Economic Benefit Worksheet

Respondent: Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No: 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	19-Jan-2007	15-Dec-2007	0.9	\$45	n/a	\$45

Notes for DELAYED costs

Estimated cost to provide additional supervision of maintenance activities to alleviate and/or prevent future unauthorized discharges. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance (2)				0.0	\$0	\$0	\$0
ONE-TIME avoided costs (3)				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$45

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 5

Rule Cite(s) TPDES Permit No. WQ0014015001, Monitoring and Reporting Requirements, No. 7.a., 30 Tex. Admin. Code § 305.125(9)

Violation Description Failed to properly report unauthorized discharges. Specifically, the reports submitted for the unauthorized discharges of 01/19/2007 and 03/09/2007 did not include the volume of the discharge, actions taken to remediate the affected area, and potential danger to the human health and safety.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$200

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$490

This violation Final Assessed Penalty (adjusted for limits) \$490

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	19-Jan-2007	15-Nov-2007	0.8	\$21	n/a	\$21

Notes for DELAYED costs

Estimated cost to prepare and submit the required non-compliance report. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 6

Rule Cite(s) TPDES Permit No. WQ0014015001, Operational Requirements, No. 1, 30 Tex. Admin. Code § 305.125(5), and 30 Tex. Admin. Code § 317.2

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, Lift Stations No. 1 and 2 are not equipped with audio-visual alarm systems and duplex pumping capability, and corrosion was observed on the sidewalls of the chlorine contact chamber and clarifier effluent weir. Additionally, on July 6, 2007, three sections of exposed broken sewer pipe were observed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained could result in the release of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

162 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended. The penalty was calculated from the February 13, 2007, investigation date to the secondary screening date, July 25, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$754

Violation Final Penalty Total \$4,900

This violation Final Assessed Penalty (adjusted for limits) \$4,900

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment	\$10,000	13-Feb-2007	15-Feb-2008	1.0	\$34	\$670	\$704
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	13-Feb-2007	15-Feb-2008	1.0	\$50	n/a	\$50

Notes for DELAYED costs

Estimated cost to repair and/or replace the lift stations pumps, and to install the audio/visual alarm system, and to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Date Required is the investigation date, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$11,000

TOTAL

\$754

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 7

Rule Cite(s) TPDES Permit No. WQ0014015001, Effluent Limitations and Monitoring Requirements, No. 1, 30 Tex. Admin. Code § 319.5(b)

Violation Description Failed to collect and analyze effluent samples for fecal coliform bacteria five times per week.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to conduct sampling as specified in the permit could result in the exposure of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

1

38 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended. The penalty was calculated from the February 13, 2007, investigation date to the initial screening date, March 23, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$113

Violation Final Penalty Total \$2,450

This violation Final Assessed Penalty (adjusted for limits) \$2,450

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$3,000	13-Feb-2007	15-Nov-2007	0.8	\$113	n/a	\$113
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct sampling as specified in the permit. Date Required is the investigation date, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$113

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 8

Rule Cite(s) TPDES Permit No. WQ0014015001, Monitoring and Reporting Requirements, No. 3.b., 30 Tex. Admin. Code § 319.7(c)

Violation Description Failed to maintain records. Specifically, records of DMRs, sludge disposal information, daily or monthly operations logs, copy of TPDES Permit No. WQ0014015001, and laboratory records prior to 12/05/06 were not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

1

1

Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$2,450

This violation Final Assessed Penalty (adjusted for limits) \$2,450

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	13-Feb-2007	15-Nov-2007	0.8	\$19	n/a	\$19
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a record keeping retention system. Date Required is the investigation date, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$19

Screening Date 25-Jul-2007

Docket No. 2007-0449-MLM-E

PCW

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Policy Revision 2 (September 2002)

Case ID No. 33045

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101278034

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 9

Rule Cite(s) TPDES Permit No. WQ0014015001, Monitoring and Reporting Requirements, Nos. 7.a. and 7.c., 30 Tex. Admin. Code § 305.125(1) and (9)(A)

Violation Description

Failed to submit a written report within five days of becoming aware of non-compliant effluent results that deviate from the permitted limitation by more than 40%. Specifically, DMR data revealed TSS deviations for the months of 12/05, 01/06, 02/06, and 04/06; flow deviations for the month of 07/06; and fecal coliform bacteria deviations for the months of 11/05, 01/06, and 10/06 which exceeded the permitted effluent limits by more than 40% and no non-compliance notifications were submitted. Additionally, an unauthorized discharge was observed on July 6, 2007 and was never reported.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 8

8 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$8,000

Eight single events are recommended for the months non-compliance notifications were not submitted and for not reporting an unauthorized discharge.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$67

Violation Final Penalty Total \$19,600

This violation Final Assessed Penalty (adjusted for limits) \$19,600

Economic Benefit Worksheet

Respondent Michael Lantz O'Neill dba Frontier Park Resort and Marina

Case ID No. 33045

Reg. Ent. Reference No. RN101278034

Media Water Quality

Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$700	20-Dec-2005	15-Nov-2007	1.9	\$67	n/a	\$67

Notes for DELAYED costs

Estimated cost to submit the required non-compliance notifications. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$700

TOTAL

\$67

Compliance History

Customer/Respondent/Owner-Operator: CN601121452 ONEILL, MICHAEL LANTZ Classification: AVERAGE Rating: 1.86

Regulated Entity: RN101278034 FRONTIER PARK RESORT AND MARINA Classification: AVERAGE Site Rating: 1.86

ID Number(s): UTILITIES REGISTRATION 12689
 UTILITIES REGISTRATION 12689
 WASTEWATER PERMIT TPDES0022918
 WASTEWATER PERMIT WQ0014015001
 WASTEWATER PERMIT TX0022918

Location: Located in Carrice Creek Cove, 6 miles east of Milam in Sabine County, Texas Rating Date: September 01 06 Repeat Violato
 NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: March 22, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: March 22, 2002 to March 22, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
 N/A

B. Any criminal convictions of the state of Texas and the federal government.
 N/A

C. Chronic excessive emissions events.
 N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 04/18/2002 (166522)
- 2 06/06/2002 (166526)
- 3 06/24/2002 (166528)
- 4 07/26/2002 (166531)
- 5 08/28/2002 (166535)
- 6 09/03/2002 (166532)
- 7 10/01/2002 (166538)
- 8 10/23/2002 (166541)
- 9 11/27/2002 (166544)
- 10 01/02/2003 (166546)
- 11 01/29/2003 (166549)
- 12 02/24/2003 (166520)
- 13 04/02/2003 (166523)
- 14 04/25/2003 (298831)
- 15 05/29/2003 (298832)
- 16 06/27/2003 (298833)
- 17 07/17/2003 (142563)
- 18 07/28/2003 (298835)
- 19 09/05/2003 (298836)
- 20 09/24/2003 (298837)
- 21 10/17/2003 (298838)

CH-2

22	12/01/2003	(298839)
23	12/01/2003	(255712)
24	01/02/2004	(298840)
25	01/29/2004	(298841)
26	03/03/2004	(298829)
27	04/12/2004	(298830)
28	04/26/2004	(353472)
29	05/03/2004	(269978)
30	06/14/2004	(353473)
31	07/08/2004	(353474)
32	08/23/2004	(353476)
33	08/24/2004	(353475)
34	10/05/2004	(353477)
35	10/13/2004	(291625)
36	11/24/2004	(382644)
37	11/24/2004	(382645)
38	01/26/2005	(382646)
39	01/31/2005	(382647)
40	03/18/2005	(382643)
41	07/21/2005	(420452)
42	07/21/2005	(420453)
43	07/21/2005	(420454)
44	07/21/2005	(420455)
45	07/21/2005	(420456)
46	08/23/2005	(441503)
47	09/19/2005	(441504)
48	10/21/2005	(469778)
49	11/14/2005	(469779)
50	12/27/2005	(469780)
51	01/23/2006	(469781)
52	02/27/2006	(469776)
53	03/22/2006	(469777)
54	04/24/2006	(499052)
55	05/15/2006	(499053)
56	06/21/2006	(499054)
57	07/17/2006	(521104)
58	08/14/2006	(521105)
59	09/21/2006	(521106)
60	03/09/2007	(538783)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/30/2002	(166526)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	05/31/2002	(166528)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2002	(166531)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2002	(166535)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2002	(166538)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			

TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter	
Date:	09/30/2002 (166541)	
Self Report?	YES	Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	12/31/2002 (166549)	
Self Report?	YES	Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	03/31/2003 (298831)	
Self Report?	YES	Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	04/30/2003 (298832)	
Self Report?	YES	Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	06/30/2003 (298835)	
Self Report?	YES	Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	07/18/2003 (142563)	
Self Report?	NO	Classification Moderate
Rqmt Prov:	OP 14015-001	
Description:	Failure to discharge effluent that is compliant with permitted limitations.	
Self Report?	NO	Classification Moderate
Rqmt Prov:	OP 14015-001	
Description:	Failure to comply with the permitted self-monitoring requirements for sampling and analysis frequency.	
Self Report?	NO	Classification Moderate
Rqmt Prov:	OP 14015-001	
Description:	Failure to submit noncompliance notifications as required by the permit	
Self Report?	NO	Classification Minor
Rqmt Prov:	OP 14015-001	
Description:	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Self Report?	NO	Classification Minor
Rqmt Prov:	OP 14015-001	
Description:	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Self Report?	NO	Classification Moderate
Rqmt Prov:	OP 14015-001	
Description:	Failure to discharge effluent that is compliant with permitted limitations.	
Self Report?	NO	Classification Minor
Rqmt Prov:	OP 14015-001	
Description:	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Self Report?	NO	Classification Minor
Rqmt Prov:	OP 14015-001	
Description:	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Date:	10/31/2003 (298839)	
Self Report?	YES	Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date:	11/30/2003 (298840)	
Self Report?	YES	Classification Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2004 (298829)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2004 (353472)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/03/2004 (269978)		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification	Moderate
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Exceedance of the minimum chlorine residual limitation		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Failure to measure the head at the proper location		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Failure to perform the sampling and analyses at the frequency specified in the permit.		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Failure to meet the holding times for fecal coliform bacteria samples		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Failure to report >40% noncompliances consistently		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Failure to keep a complete log for the dissolved oxygen meter		
Self Report?	NO	Classification	Minor
Rqmt Prov:	PERMIT WQ 14015-001		
Description:	Failure to dispose of sludge as described in the permit application		
Date:	07/31/2004 (353476)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2004 (382644)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2004 (382647)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2005 (420456)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	07/31/2005	(441503)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2005	(469778)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2005	(469779)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2005	(469780)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2005	(469781)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2006	(469776)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/28/2006	(469777)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2006	(499052)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/30/2006	(499053)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2006	(521104)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/30/2006	(521105)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/13/2006	(510648)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(4) TWC Chapter 26 26.121(a)(1)			
Rqmt Prov:	PERMIT PC2g			
Description:	Failure by Michael Lantz O'Neill to prevent unauthorized discharges into or adjacent to the waters of the state.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9)[G]			

Rqmt Prov:	PERMIT M&RR7b		
Description:	Failure by Michael Lantz O'Neill to report unauthorized discharges to the Region 10 office within 24 hours of becoming aware of the discharge.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.2[G]		
Rqmt Prov:	PERMIT OpR1		
Description:	Failure by Michael Lantz O'Neill to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.350(j)		
Description:	Failure by Frontier Park Marina to have the wastewater treatment operated a minimum of five days a week by a licensed operator of the required level of license.		
Date:	09/30/2006		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2006		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MICHAEL LANTZ O'NEILL DBA
FRONTIER PARK RESORT AND
MARINA;
RN101278034 AND RN105161889**

§
§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2007-0449-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7, 26, and 37, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Michael Lantz O'Neill dba Frontier Park Resort and Marina ("Mr. O'Neill").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. O'Neill owns and operates a wastewater treatment plant ("WWTP") located 6 miles east of Milam in Carrice Creek, Sabine County, Texas (the "Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
3. During investigations conducted on February 13, 2007, and July 6, 2007, a TCEQ Beaumont Regional Office documented that Mr. O'Neill:
 - a. Failed to obtain a wastewater operators license prior to operating a permitted wastewater treatment and collection system;
 - b. Failed comply with permitted effluent limits. Specifically:
 - i. The minimum Dissolved Oxygen ("DO") required is 4 milligrams per liter

- (“mg/L”), however, in October 2006 the DO was only 3 mg/L;
- ii. The Total Suspended Solids (“TSS”) mg/L daily average limit is 15 mg/L. The following exceedences were reported:
 - A. December 2005 – 18.3 mg/L;
 - B. January 2006 – 26.6 mg/L;
 - C. February 2006 – 23.3 mg/L;
 - D. March 2006 – 16.8 mg/L;
 - E. April 2006 – 24.5 mg/L; and
 - F. June 2006 – 15.3 mg/L;
 - iii. The TSS pounds per day (“lbs/day”) daily average limit is 1.2 lbs/day, however, in March 2006 the TSS lbs/day daily average was measured at 4.32 lbs/day;
 - iv. The daily average flow of effluent shall not exceed 0.0089 million gallons per day (“MGD”), however, in June 2006 the daily average flow was measured at 0.033687 MGD;
 - v. The chlorine residual should be between one and four mg/L, however, in September and October 2006, the chlorine residual was measured at 4.4 mg/L;
 - vi. The Biochemical Oxygen Demand 5-day (“BOD5”) mg/L daily average limit is 10 mg/L. In December 2005 and April 2006 the BOD5 mg/L daily average was measured at 12.3 mg/L and 15.9 mg/L, respectively;
 - vii. The BOD5 lbs/day daily average limit is .8 lbs/day. In March 2006 the BOD5 lbs/day daily average was 1.59 lbs/day;
 - viii. The fecal coliform bacteria daily average limit is 200 mg/L. In November 2005 and October 2006 the fecal coliform bacteria daily average was 646 mg/L and 926 mg/L, respectively; and
 - ix. The fecal coliform bacteria single grab limit is 800 mg/L. In November 2005 and January and October 2006, the fecal coliform bacteria single grabs were 1900 mg/L, 9500 mg/L, and 2320 mg/L, respectively.

- c. Failed to submit the annual sludge report for the reporting period ending July 31, 2006;
- d. Failed to submit all required parameter data as specified in the permit. Specifically, Mr. O'Neill failed to include pH data in the discharge monitoring report ("DMR") for outfall 001 for the monitoring period ending September 30, 2006;
- e. Failed to prevent unauthorized discharges. Specifically, the pump servicing Lift Station No. 1 failed, resulting in three unauthorized sewage discharge events occurring on January 19, 2007, March 9, 2007, and July 4, 2007;
- f. Failed to properly report unauthorized discharges. Specifically, the reports submitted for the unauthorized discharges of January 19, 2007, and March 9, 2007, did not include the volume of the discharge, actions taken to remediate the affected area, and potential danger;
- g. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, Lift Stations No. 1 and 2 are not equipped with audio-visual alarm systems and duplex pumping capability, and corrosion was observed on the sidewalls of the chlorine contact chamber and clarifier effluent weir. Additionally, three sections of exposed broken sewer pipe were observed during the July 6, 2007, investigation;
- h. Failed to collect and analyze effluent samples for fecal coliform bacteria five times per week;
- i. Failed to maintain records. Specifically, records of DMRs, sludge disposal information, daily or monthly operations logs, copy of the TPDES Permit, and laboratory records prior to December 5, 2006, were not available for review; and
- j. Failed to submit a written report within five days of becoming aware of non-compliant effluent results that deviate from the permitted limitation by more than 40%. Specifically, DMR data revealed TSS deviations for the months of December 2005, and January, February, and April 2006; flow deviations for the month of July 2006; and fecal coliform bacteria deviations for the months of November 2005, and January and October 2006, which exceeded the permitted effluent limits by more than 40%, and no non-compliance notifications were submitted. Additionally, an unauthorized discharge observed during the July 6, 2007, investigation had not been reported.

4. Mr. O'Neill received notice of the violations on or about April 18, 2007, and August 3, 2007.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Lantz O'Neill dba Frontier Park Resort and Marina" (the "EDPRP") in the TCEQ Chief Clerk's office on June 26, 2007.
6. By letter dated June 26, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. O'Neill with notice of the EDPRP. According to the return receipt "green card," Mr. O'Neill received notice of the EDPRP on July 12, 2007, as evidenced by the signature on the card.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Lantz O'Neill dba Frontier Park Resort and Marina" (the "EDFARP") in the TCEQ Chief Clerk's office on October 23, 2007.
8. By letter dated October 23, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. O'Neill with notice of the EDFARP. According to the return receipt "green card," Mr. O'Neill received notice of the EDFARP on November 15, 2007, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Mr. O'Neill received notice of the EDPRP and of the EDFARP, provided by the Executive Director. Mr. O'Neill failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. O'Neill is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7, 26, and 37, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. O'Neill failed to obtain a wastewater operators license prior to operating a permitted wastewater treatment and collection system, in violation of 30 TEX. ADMIN. CODE § 30.331(b), and TEX. WATER CODE §§ 26.0301 and 37.003;
3. As evidenced by Finding of Fact No. 3.b., Mr. O'Neill failed to comply with permitted effluent limits, in violation of TPDES Permit, Effluent Limitations and Monitoring

- Requirements, Nos. 1, 2, and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a);
4. As evidenced by Finding of Fact No. 3.c., Mr. O'Neill failed to submit the annual sludge report for the reporting period ending July 31, 2006, in violation of TPDES Permit, Sludge Provisions, and 30 TEX. ADMIN. CODE § 305.125(17);
 5. As evidenced by Finding of Fact No. 3.d., Mr. O'Neill failed to submit all required parameter data as specified in the permit, in violation of TPDES Permit, Monitoring and Reporting Requirements, No. 1, and 30 TEX. ADMIN. CODE § 305.125(1);
 6. As evidenced by Finding of Fact No. 3.e., Mr. O'Neill failed to prevent unauthorized discharges, in violation of TPDES Permit, Permit Conditions, No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4), and TEX. WATER CODE § 26.121(a);
 7. As evidenced by Finding of Fact No. 3.f., Mr. O'Neill failed to properly report unauthorized discharges, in violation of TPDES Permit, Monitoring and Reporting Requirements, No. 7.a., and 30 TEX. ADMIN. CODE § 305.125(9);
 8. As evidenced by Finding of Fact No. 3.g., Mr. O'Neill failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit, Operational Requirements, No. 1, and 30 TEX. ADMIN. CODE §§ 305.125(5), and 317.2;
 9. As evidenced by Finding of Fact No. 3.h., Mr. O'Neill failed to collect and analyze effluent samples for fecal coliform bacteria five times per week, in violation of TPDES Permit, Effluent Limitations and Monitoring Requirements, No. 1, and 30 TEX. ADMIN. CODE § 319.5(b);
 10. As evidenced by Finding of Fact No. 3.i., Mr. O'Neill failed to maintain required records, in violation of TPDES Permit, Monitoring and Reporting Requirements, No. 3.b., and 30 TEX. ADMIN. CODE § 319.7(c); and
 11. As evidenced by Finding of Fact No. 3.j., Mr. O'Neill failed to submit a written report within five days of becoming aware of non-compliant effluent results that deviate from the permitted limitation by more than 40%, in violation of TPDES Permit, Monitoring and Reporting Requirements, No. 7.c., and 30 TEX. ADMIN. CODE § 305.125(1).

12. As evidenced by Finding of Fact Nos. 5 through 8, the Executive Director timely served Mr. O'Neill with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
13. As evidenced by Finding of Fact No. 8, Mr. O'Neill failed to file a timely answer to the EDPRP or the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. O'Neill and assess the penalty recommended by the Executive Director.
14. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. O'Neill for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
15. An administrative penalty in the amount of forty-eight thousand five hundred thirty-five dollars (\$48,535.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
16. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. O'Neill is assessed an administrative penalty in the amount of forty-eight thousand five hundred thirty-five dollars (\$48,535.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Mr. O'Neill's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Michael Lantz O'Neill dba Frontier Park Resort and Marina; Docket No. 2007-0449-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. O'Neill shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. O'Neill shall, in accordance with the TPDES Permit:
 - i. begin providing non-compliance notifications to TCEQ;
 - ii. begin maintaining all required records; and
 - iii. begin collecting and analyzing effluent samples for fecal coliform bacteria five times per week.
 - b. Within 15 days after the effective date of this Order, Mr. O'Neill shall submit:
 - i. the annual sludge report for the reporting period ending July 31, 2006, and
 - ii. a revised DMR for outfall 001 to include pH data for the monitoring period ending September 30, 2006.
 - c. Within 30 days of the effective date of the Commission Order, Mr. O'Neill shall develop and implement operational and maintenance procedures to prevent future unauthorized discharges from the lift station;
 - d. Within 45 days of the effective date of the Commission Order, Mr. O'Neill shall hire a licensed operator to operate the WWTP, in accordance with the TPDES Permit and 30 TEX. ADMIN. CODE § 30.331;
 - e. Within 60 days of the effective date of the Commission Order, Mr. O'Neill shall submit written certification of compliance with the TPDES Permit Effluent Limitations and Monitoring Requirements, in the manner described in paragraph 2.g., below;

- f. Within 90 days of the effective date of the Commission Order, Mr. O'Neill shall install audio/visual systems and repair or replace the pumps at Lift Stations No. 1 and 2; and
- g. Within 105 days after the effective date of the Commission Order, Mr. O'Neill shall submit written certification and detailed supporting documentation, including photographs, receipts, and /or other records, to demonstrate compliance with ordering provision Nos. 2.a.i. through 2.d., and 2.f. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:
"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. O'Neill shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Ronald Hebert, Manager, Water Section
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

- 3. All relief not expressly granted in this Order is denied.
- 4. The provisions of this Order shall apply to and be binding upon Mr. O'Neill. Mr. O'Neill is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

5. If Mr. O'Neill fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. O'Neill's failure to comply is not a violation of this Order. Mr. O'Neill shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. O'Neill shall notify the Executive Director within seven days after Mr. O'Neill becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. O'Neill shall be made in writing to the Executive Director. Extensions are not effective until Mr. O'Neill receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. O'Neill if the Executive Director determines that Mr. O'Neill has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LENA ROBERTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Lena Roberts. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Lantz O'Neill dba Frontier Park Resort and Marina" (the "EDPRP") was filed with the Office of the Chief Clerk on June 26, 2007.

The EDPRP was mailed to Mr. O'Neill at his last known address on June 26, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. O'Neill received notice of the EDPRP on July 12, 2007, as evidenced by the signature on the card.

On behalf of the Executive Director, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Lantz O'Neill dba Frontier Park Resort and Marina" (the "EDFARP") was filed with the Office of the Chief Clerk on October 23, 2007.

The EDFARP was mailed to Mr. O'Neill at his last known address on October 23, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. O'Neill received notice of the EDFARP on November 15, 2007, as evidenced by the signature on the card.

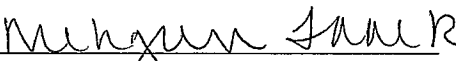
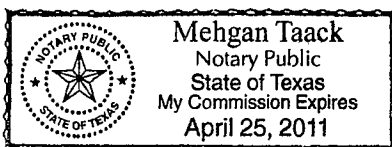
More than 20 days have elapsed since Mr. O'Neill received notice of the EDPRP and the EDFARP. Mr. O'Neill failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



Lena Roberts, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Lena Roberts, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 3rd day of March, A.D., 2008.


Notary Signature